

1. PARTIES

The Montana Department of Corrections (DEPARTMENT) and **Mental Health Center (CONTRACTOR)** enter into this Contract (11-020-ACCD). The parties names, addresses, and telephone numbers are as follows:

Montana Department of Corrections
(Division or Facility)
1539 11th Avenue
PO Box 201301
Helena, MT 59620-1301
(406) 444-3930

Mental Health Center
1245 North 29th

Billings, MT 59102
(406) 252-5658

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS CONTRACT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES/RESPONSIBILITIES OF CONTRACTOR

CONTRACTOR agrees to provide mental health services to offenders under the supervision of the Hardin Probation & Parole staff after written referral from the offender's supervising Probation & Parole officer. Services will be provided at the Mental Health Center located at 809 North Custer Avenue in Hardin, Montana. Services shall include the following:

- A. Designation of an accessible and specific mental health staff person available to offenders every Tuesday through Thursday from 9:00 a.m. to 4:00 p.m. (excluding 1 hour for lunch) (total of 18 hours/week). CONTRACTOR will ensure that other staff is designated and available during scheduled vacations, unscheduled illness, or other vacancies.
- B. Cognitive Principles and Restructuring (CP&R) and Anger Management Groups conducted, at a minimum, by a Bachelor's level mental health worker. CONTRACTOR will attend and complete DEPARTMENT CP&R Facilitator training and ensure that designated staff is also professionally trained to present Anger Management Groups. CONTRACTOR will follow DEPARTMENT CP&R Facilitator's Manual guidelines for offender completion of Phase I, II and III. CONTRACTOR will use DEPARTMENT CP&R materials for class training, ordered through Montana Correctional Enterprises (MCE). Manuals/workbooks & approximate costs include: Facilitator's manual - \$18.00; CP&R Phase I workbook - \$2.50; CP&R Phase II workbook - \$2.50, and Phase III workbook - \$2.50. CONTRACTOR may require CP&R and Anger Management Group participants to cover the cost of their own workbooks. Offenders will be permitted to discontinue CP&R upon completion of Phase II or Relapse Phase III requirements. Completion of Phase III will be dependent upon offender's behavior and supervising officer's recommendations. All CP&R groups will be scheduled to allow offender completion within a six (6) month time period. Exceptions to the six (6) month time period will be made on a case by case basis and upon staffing and approval between CONTRACTOR and offender supervising officer or Contract liaison. Group sizes will not exceed fifteen (15) offenders per group.
- C. Mental health assessments and individual counseling performed by a Bachelor's level mental health worker, licensed clinical social worker, or licensed clinical professional counselor.

- D. Mental health evaluations (not covered through other available Mental Health Center programs), as needed and performed by a licensed clinical social worker or licensed clinical professional counselor.
- E. Submission of weekly written progress reports to the referring Probation and Parole Officer which contain the following information:
 - i. offender attendance history
 - ii. offender participation/attitude/behavior
 - iii. offender progress in groups or counseling
 - iv. recommendations
- F. Regular contact with the Courts, Probation and Parole Office, Crow Wellness Center, and other service providers in the Hardin area in order to proactively address the needs of offenders under the supervision of the DEPARTMENT.
- G. Proactive outreach services for the offender population and various service provider organizations which include, but are not limited to, informative pamphlets, in-service presentations, and continuing education regarding available services and programming in the community.
- H. Within 90 days of contract execution, development of a spreadsheet to track outcome measures and an offender referral form in conjunction with the Region IV Regional Administrator and Hardin Probation and Parole Office staff.
- I. Collection of useable and measurable offender data as agreed upon with the Region IV Regional Administrator and Hardin Probation and Parole Office staff. CONTRACTOR Agrees to provide any data, statistics, and information that the Department reasonably requires.
- J. Six (6) months following execution of this Contract, CONTRACTOR agrees to review the services provided under this Contract with the DEPARTMENT, to determine the effectiveness of the services and if they are mutually beneficial for both the DEPARTMENT and the CONTRACTOR. During this period, if applicable, the DEPARTMENT will amend this Contract to establish a minimum number of encounters (i.e. CONTRACTOR contacts with offenders and other service providers, to perform groups, counseling sessions, outreach services, and community support) necessary to sustain continued funding of the Contract.

3. **COMPENSATION/BILLING**

DEPARTMENT shall compensate CONTRACTOR for successful delivery of services (or goods), provided pursuant to Section 2, in the following manner:

- A. DEPARTMENT shall pay CONTRACTOR **\$3600.00 per month**, not to exceed forty three thousand two hundred and 00/100 Dollars (**\$43,200.00**) per contract period for the services described herein. Staff vacancies will be deducted from the monthly compensation amount at a rate of \$50.00 per hour.
- B. This rate is inclusive of all necessary group/staff workbooks, travel, and per diem. DEPARTMENT will not compensate CONTRACTOR for travel or travel time, lodging, meals, supplies, or any other expense incurred by CONTRACTOR while performing services identified within this Contract.

- C. DEPARTMENT agrees to pay CONTRACTOR within thirty (30) days following receipt of a correct invoice.
- D. DEPARTMENT may withhold payments to CONTRACTOR if CONTRACTOR has not performed in accordance with the terms of this Contract.
- E. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.

4. AGENCY ASSISTANCE

To the extent possible, CONTRACTOR shall use its own facilities and equipment in providing the services set forth in Section 2. However, the parties recognize that services provided to DEPARTMENT may occur within the confines of a secure correctional facility necessitating the use of DEPARTMENT facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and telephone service (e.g., Montana State Prison and Montana Women's Prison do not allow wireless phones within facility).

5. TIME OF PERFORMANCE

This Contract shall take effect upon receipt of final contract signature and shall terminate on September 1, 2011, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of six (6) additional years.

Upon expiration of this Contract, and in the absence of a new written agreement, the terms listed herein shall continue to govern the agreement between the parties until such time as a new Contract is signed.

6. LIAISONS AND NOTICE

- A. John Williams, Regional Administrator (406-896-5400), 2615 4th Ave., Billings, Montana 59107 or successor serves as DEPARTMENT liaison.
- B. Karl Eby, Clinical Director (406) 252-5658, 1245 North 29th, Billings MT 59102 or successor serves as CONTRACTOR liaison.
- C. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (A) and (B) above, mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

7. OWNERSHIP AND PUBLICATION OF MATERIALS

All materials CONTRACTOR develops or utilizes (i.e., reports, spreadsheets, etc.) in performing the services set forth in Section 2 above shall be the sole property of DEPARTMENT.

8. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Neither CONTRACTOR nor its employees are employees of the State. In accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA, Contractors are required to comply with the provisions of the

Montana Workers' Compensation Act while performing work for the State of Montana. CONTRACTOR shall provide proof of compliance in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and maintain such insurance, exemption, or corporate officer status for the duration of the contract. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Contracts Management Bureau, Attn: Contracts Manager, PO Box 201301, Helena, MT 59620-1301.

9. HOLD HARMLESS AND INDEMNIFICATION

CONTRACTOR agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of CONTRACTOR'S employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of CONTRACTOR and/or its agents, employees, representatives, assigns, or subcontractors - except the sole negligence of the State under this agreement.

10. INSURANCE

- A. **General Requirements:** CONTRACTOR shall maintain for the duration of the Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by CONTRACTOR, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

Primary Insurance: CONTRACTOR'S insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by DEPARTMENT. At the request of DEPARTMENT either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

Certificate of Insurance/Endorsements: A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages must be received by the Contracts Manager, PO Box 201301, Helena, MT 59620-1301 prior to start of work under this Contract. CONTRACTOR must immediately notify DEPARTMENT of any material change in insurance coverage, such as changes in limits, coverages, policy status, etc. DEPARTMENT reserves the right to require complete copies of insurance policies at all times.

- B. **Specific Requirements for Commercial General Liability:** CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of CONTRACTOR, including the insured's general supervision of CONTRACTOR; products and completed operations; premises owned, leased, occupied, or used.

- C. **Specific Requirements for Professional Liability:** CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$3,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, CONTRACTOR may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the Contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

11. ACCESS AND RETENTION OF RECORDS

CONTRACTOR agrees to provide DEPARTMENT, the Legislative Auditor, or their authorized agents with access to any records necessary to determine Contract compliance (Ref. 18-1-118, MCA). CONTRACTOR agrees to create and retain all records supporting the services rendered and/or supplies delivered for a period of three years after either the completion date of this Contract or the conclusion of any claim, litigation, or exception relating to this Contract taken by the State of Montana or a third party.

12. PUBLIC INFORMATION

CONTRACTOR recognizes that this Contract may be subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. DEPARTMENT has a limited ability to assert a privacy interest in the subject matter of the Contract particularly with respect to information which is in the nature of a "trade secret" as the phrase is defined in federal law. In any event, CONTRACTOR agrees to hold DEPARTMENT harmless from any injury caused, in whole or in part, by the review of this agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

13. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

CONTRACTOR shall not assign, sell, transfer, subcontract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligation of this Contract and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Contract as if no such assignment had occurred.

14. AMENDMENTS

All amendments to this Contract shall be in writing and signed by the parties.

15. COMPLIANCE WITH LAWS

CONTRACTOR must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973. Any subletting

or subcontracting by CONTRACTOR subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, CONTRACTOR agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by persons performing the Contract.

16. TERMINATION AND DEFAULT

- A. DEPARTMENT may, by written notice to CONTRACTOR, terminate this Contract in whole or in part at any time CONTRACTOR fails to perform as required in this Contract.
- B. Either party may terminate this Contract without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Contract shall provide written notice to the other, which notice will establish a termination date not less than 30 days from the date of such notice. The termination of this Contract shall not limit any party's pursuit of remedies provided in this Contract or otherwise available under the laws of the State of Montana.
- C. DEPARTMENT, at its sole discretion, may, without 30 days notice, terminate or reduce the scope of this Contract if available funding is reduced for any reason. If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled. (Ref. 18-4-313(4), MCA).
- D. Failure on the part of either party to perform the provisions of this Contract constitutes default. Default may result in pursuit of a remedy for breach of Contract including, but not limited to, monetary damages or specific performance.

17. CHOICE OF LAW AND VENUE

The laws of Montana govern this Contract. The parties agree that any mediation, arbitration or litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees (Ref. 18-1-401, MCA).

18. LICENSURE

CONTRACTOR agrees to provide copies of current licenses and certifications that register CONTRACTOR and any associates performing under this Contract.

19. INTEGRATION

This Contract contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Contract, shall be binding or valid. This Contract shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Contract.

20. SEVERABILITY


A declaration by any court, or any other binding legal source, that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.

21. **COMPLETED CONTRACT**

DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Contracts Management Bureau, PO Box 201301, 1539 11th Avenue, Helena, MT 59620-1301.


SIGNATURE

DEPARTMENT


Pam Bunke, Administrator
Adult Community Corrections Division


8-25-10
Date

CONTRACTOR


Dave Pierce, Executive Director
Mental Health Center

8-27-2010
Date

Approved for Legal Content by:


Legal Counsel
Department of Corrections

8/25/10
Date